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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|-----------------------------|
| 10/566,004 | 01/25/2006 | Wilhelm Hardtle | ZAHFR1 P814US | 9968 |
| 20210 7590 07/09/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301 | | | EXAMINER LE, DAVID D | |
| | | | ART UNIT 3681 | PAPER NUMBER |
| | | | NOTIFICATION DATE 07/09/2008 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENT@DAVISANDBUJOLD.COM

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/566,004 | HARDTLE, WILHELM | |
| | Examiner | Art Unit | |
| | David D. Le | 3681 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-21, 23 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-21, 23 and 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/01/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the second Office action on the merits of Application No. 10/566,004, filed 25 January 2006. Claims 13-21, 23 and 26-34 are currently pending.

Documents

2. The following documents have been received and filed as part of the patent application:
 - A Copy of Foreign Priority Document, received on 01/25/06
 - Information Disclosure Statement, received on 01/25/06
 - Information Disclosure Statement, received on 04/01/08

Claim Objections

3. Claim 27 is objected to because of the following informalities:
 - Claim 27, line 3, "and/or" should be --and--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 13-21, 23 and 26-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13:

- Line 12 recites the limitation "the operator controlled gas pedal". There is insufficient antecedent basis for this limitation in the claim.

Claim 15:

- Line 9 recites the limitation "a roadway obstruction". It is unclear whether this newly recited limitation is different from the one, which is first recited on line 4 of claim 13.

Claim 17:

- Line 3 recites the limitation "an activation frequency F1". It is unclear whether this newly recited limitation is different from the one, which is first recited on line 15 of claim 13.

Claim 18:

- Lines 3-4 recite the limitation "an activation frequency F1". It is unclear whether this newly recited limitation is different from the one, which is first recited on line 15 of claim 13.

Claim 19:

- Line 4 recites the limitation “an activation frequency F1”. It is unclear whether this newly recited limitation is different from the one, which is first recited on line 15 of claim 13.

Claim 26:

- Lines 8-9 recite the method step of "controlling the actuator during the starting operation *in such a way* to periodically fluctuate a transmitted torque". It is unclear, specifically, which way that the method step is referring to.
- Lines 10-11 recite the limitation "the characteristics". There is insufficient antecedent basis for this limitation in the claim.
- Line 11 recites the limitation "the drive path". There is insufficient antecedent basis for this limitation in the claim.

Claim 27:

- Line 2 recites the limitation "the vehicle speed". There is insufficient antecedent basis for this limitation in the claim.
- Line 2 recites the limitation "the vehicle mass". There is insufficient antecedent basis for this limitation in the claim.
- Line 2 recites the limitation "the radius". There is insufficient antecedent basis for this limitation in the claim.

- Lines 2-3 recite the limitation "the vehicle wheels". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the grip". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the vehicle tires". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the built-up forces". There is insufficient antecedent basis for this limitation in the claim.

Claim 28:

- Line 2 recites the limitation "the driving speed". There is insufficient antecedent basis for this limitation in the claim.
- Line 4 recites the limitation "the powered wheels". There is insufficient antecedent basis for this limitation in the claim.

Claim 29:

- Line 2 recites the limitation "the driving speed". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the forces". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the driving torque". There is insufficient antecedent basis for this limitation in the claim.

Claim 32:

- Line 2 recites the limitation "the vehicle speed". There is insufficient antecedent basis for this limitation in the claim.
- Line 2 recites the limitation "the control direction". There is insufficient antecedent basis for this limitation in the claim.
- Lines 2-3 recite the limitation "the control travel". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the control speed". There is insufficient antecedent basis for this limitation in the claim.
- Line 3 recites the limitation "the control element". There is insufficient antecedent basis for this limitation in the claim.
- It is also unclear what the claimed method step tries to determine.

Claim 33:

- Line 2 recites the limitation "the gas pedal". There is insufficient antecedent basis for this limitation in the claim.
- Line 2 recites the limitation "the automotive engine". There is insufficient antecedent basis for this limitation in the claim.

Allowable Subject Matter

6. Claims 13-21, 23 and 26-34 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Response to Arguments

7. Applicant's arguments with respect to claims 13-21, 23 and 26-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David D. Le whose telephone number is 571-272-7092. The examiner can normally be reached on Mon-Fri (0900-1730).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David D. Le/
Primary Examiner, Art Unit 3681
06/29/2008

ddl

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| <div>Application Number</div> <div></div> | Application/Control No. | Applicant(s)/Patent under Reexamination | |
| | 10/566,004 | HARDTLE, WILHELM | |
| | Examiner | Art Unit | |
| | David D. Le | 3681 | |